

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MTAG CUST ALTERNA FUNDING II, LLC,

Plaintiff,

v.

PAMELA RUSS FERGUSON, et al.,

Defendants.

Civ. No. 18-13625 (KM)(MAH)

ORDER

MCNULTY, District Judge

THIS MATTER having come before the court on the plaintiff's motion (DE 7) to remand this removed case; and

IT APPEARING that the defendant did not file an opposition to the motion to remand; and

IT APPEARING that the Hon. Michael A. Hammer, U.S. Magistrate Judge, to whom the motion was referred, has nevertheless carefully analyzed the case and filed a Report and Recommendation ("R&R") that the motion be granted (DE 9); and

IT APPEARING that the plaintiff has filed what is deemed an "objection" to the R&R, *see* Fed. R. Civ. P. 72(b); L. Civ. R. 72.1c(2), which contains no facts or arguments, but merely states that the plaintiff will "rely on the all affidavits filed in the Foreclosure Action. All supporting documents";

IT APPEARING that the underlying action is a state-law mortgage foreclosure, and that therefore there is no basis for federal question jurisdiction, *see* 28 U.S.C. § 1331; and

THE COURT having reviewed *de novo* the R&R, and found itself in complete agreement with the grounds expressed therein, specifically the following:

- (a) Removal was procedurally defective, in that 28 U.S.C. § 1446(b)(1) requires that a notice of removal be filed within 30 days after service of the relevant complaint or pleading. This state court foreclosure complaint was filed on April 17, 2017, but the notice of removal was not filed until nearly 17 months later, on September 5, 2018. Indeed, that was some seven months after the state court had entered a final judgment of foreclosure.
- (b) Removal was based on diversity of citizenship between the plaintiff (a citizen of Louisiana) and defendant Ferguson (a citizen of New Jersey). Although complete diversity is required and the removing party has the burden to demonstrate jurisdiction,¹ the citizenship of the remaining defendants is nowhere stated.

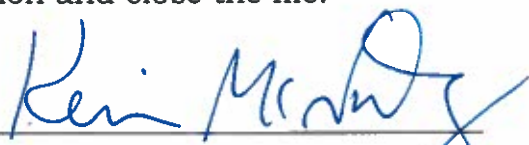
IT IS THEREFORE this 3d day of July, 2019,

ORDERED that the Report and Recommendation (DE 9) is **AFFIRMED** pursuant to 28 U.S.C. § 636 and Fed. R. Civ. P. 72(b)(3); and is further

ORDERED that the motion to remand (DE 7) is **GRANTED**; and it is further

ORDERED that the case be **REMANDED** to the Superior Court of New Jersey, Chancery Division, Essex County.

The Clerk shall terminate this civil action and close the file.



KEVIN MCNULTY, U.S.D.J.

¹ *Strawbridge v. Curtiss*, 7 U.S. (3 Cranch) 267 (1806) (complete-diversity rule); *Samuel-Bassett v. KIA Motors Am., Inc.*, 357 F.3d 392, 396 (3d Cir. 20014) (removing party has burden).